

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HILARIO VARGAS, and MARIA
VARGAS, each individually and the marital
community composed thereof,

Plaintiffs,

v.

ALLSTATE INSURANCE COMPANY, a
foreign corporation,

Defendant.

Case No. C07-5082RBL

ORDER ON DEFENDANT'S MOTION
TO DISMISS

THIS MATTER is before the Court on Defendant's Motion to Dismiss for Plaintiffs' Failure to Comply With This Court's Orders and for Want of Prosecution [Dkt. #64]. The Court is familiar with the long and tortured history of this case. The Court has reviewed all of the materials submitted for and against said motion. The Court does not need oral argument in order to resolve the issues presented in the motion. For the following reasons, the Motion to Dismiss is **DENIED**. The trial date will remain January 11, 2010, and the parties will comply with the following pretrial procedures on an expedited basis.

The parties to this dispute have a long history of staging and failing to confront or resolve discovery and procedural disputes until the eleventh hour. Defendant's most recent motion is yet another attempt to

1 terminate the litigation for failure of the parties to do all that is expected of them during the ramp-up to trial.
2 Defendant presses the point that the obligation to advance the case to trial belongs to plaintiffs and strong
3 sanctions should issue for plaintiffs' failure to meet that obligation in this case. Plaintiffs respond that they
4 have asked for, but not yet been given, the final pieces of information they need to be fully prepared for trial
5 - - information they requested months ago. No phone call or written motion has been previously directed to
6 the Court to resolve the issue of an FRCP30(b)(6) deposition or for presentation of Allstate's claims file.
7 There is also the issue of a September 25, 2009 letter that plaintiffs say was sent but defendant denies was
8 received. The authenticity of that letter is not material to the Court's resolution of this matter.
9

10 Neither side has, in the Court's opinion, availed itself of, or responded to, requests for information
11 within the spirit contemplated by the liberal discovery rules contained within the Federal Rules of Civil
12 Procedure. We will therefore proceed to trial on the 11th of January the old-fashioned way: In great haste,
13 under great pressure and with the humble realization that we may well not have done everything in our power
14 to prepare for litigation which is of great moment to our respective clients.
15

16 The Court enters the following Orders:

- 17 1. The Motion to Dismiss [Dkt. #64] is **DENIED**, the related Motion for Sanctions is **DENIED**.
- 18 2. The Pre-Trial Order procedure pursuant to Local Rule 16(h)-(m) is as follows:
19
20 Plaintiffs' Pretrial submission pursuant to LR 16(h) will be delivered to the defendant
21 by 12:00 noon on January 5, 2010;
22 Defendant's Pretrial statement pursuant to LR 16(i) will be delivered to the plaintiffs
23 by 12:00 noon on January 7, 2010;
24 3. The review of exhibits and conference of attorneys mandated by LR 16(j) and (k) will occur
25 on January 8, 2010 immediately following the FRCP 30(b)(6) deposition of the Allstate
26 representative which will also be conducted on January 8, 2010.
27 4. The Allstate claims file identified as Exhibit A to the previous FRCP 30(b)(6) deposition
28 notice of 9/25/09 will be made available to the plaintiffs in total by 12:00 noon on January 7,

2010. All objections regarding the documents will be reserved until the time of trial. All documents in the claims file will be produced.

5. No formal mediation or settlement conference is required.
6. Trial Briefs will be filed on January 8, 2010 by 12:00 noon.
7. Proposed Voir Dire questions will be submitted to the Court by 9:00 a.m. on January 8, 2010.
8. Pre-Trial Order pursuant to LR 16 will be submitted by 9:00 a.m. on January 11, 2010.
9. Jury selection will begin at 9:00 a.m. on January 11, 2010.

IT IS SO ORDERED.

Dated this 28th day of December, 2009.

Ronald B. Lightner

RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE